IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11/10/2002

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THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO. 1737 OF 2001
and
W.M.P.NO.2367 OF 2001

L.N. Venkatesan .. Petitioner

-Vs-

1. State of Tamil Nadu,
rep. by the Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai 600 009.

2. The Special Deputy Collector,
(Land Acquisition) Tamil Nadu
Housing Board Scheme,
Chennai 600 005.

3. The Special Tahsildar,
(Land Acquisition-II)
Tamil Nadu Housing Board,
Chennai 600 035.

4. Tamil Nadu Housing Boad,
Anna Salai, Nandanam,
Chennai 35, rep. by its
Managing Director .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr. V.R. Venkataraman
Senior Counsel for
Mr.S. Baskaran

For Respondents 1-3: Mr.N.R. Chandran
Advocate General
Mr.R. Muthukumarasamy
Addl. Advocate General
assisted by

Mrs.N.G. Kalaiselvi,
Special Govt. Pleader

Respondent-4 : Mr.D. Veerasekaran

:J U D G M E N T

The facts giving rise to the present writ petition are as follows :-

More than a quarter century back proceedings were initiated under the Land Acquisition Act for acquisition of 10.33 acres of land belonging to the petitioner and the declaration under Section 6 of the Land Acquisition Act, (hereinafter referred to as 'the Act') was published on 23.3.1978. Subsequently after service of notice under Section 9(3) of the Act, the petitioner filed W.P.No.10351 of 1982 challenging the land acquisition proceedings. Said writ petition was confined to 6 acres of land only. In respect of balance of 4.33 acres of land, presently disputed, the petitioner subsequently filed W.P.No.7645 of 1986 challenging the acquisition proceedings.

While the matter stood thus, the petitioner filed another W.P.No.35 40 of 1988 to quash the award on the ground that the award was passed beyond the period of limitation. While W.P.No.7645 of 1986 was pending in this Court, the Housing Board passed a resolution dated 29.7.1 994 indicating the difficulties to complete the scheme and requested the Government to take appropriate action to release the land from the acquisition. On 20.2.1996, the Government passed an order to proceed in the matter regarding resumption of the land. On 19.7.1996, the writ petition challenging the award was dismissed. Thereafter on 8.8.1997, W.P.No.7645 of 1986 challenging the land acquisition proceedings in respect of the present disputed area of 4.33 acres was dismissed and S.L.P.No.18103 of 1997 has been filed before the Supreme Court and it is stated that now the matter is pending for hearing. In the meanwhile, the respondent Housing Board has passed a resolution dated 31.8.2000 purporting to withdraw the earlier resolution dated 29.7.1994. This subsequent resolution of the Housing Board is challenged by the present petitioner mainly on the ground that the Housing Board has passed the resolution only because the appeal filed by the petitioner before the Supreme Court was ripe for hearing and its earlier resolution dated 29.7.1994 recommending release of the land was likely to be considered by the Supreme Court and only with a view to defeat such possible contention, the Housing Board has passed the subsequent resolution. It has been further submitted that the subsequent resolution has been passed without application of mind and without following the principles of natural justice.

2. A counter affidavit has been filed on behalf of the respondents refuting the contentions raised in the writ petition.

3. Coming to the first contention of the learned counsel appearing for the petitioner to the effect that the resolution dated 31.8.2000 has been passed merely with a view to defeat the possible contention of the petitioner regarding earlier dated 29.7.1994, is a matter to be considered by

the Supreme Court in the pending appeal. Inspite of the earlier resolution dated 29.7.1994, WP.No.7645 of 1986 was dismissed by a Division Bench of this Court and the legality of that decision is to be considered in the pending appeal before the Supreme Court. If any of the party has tried to take some steps to defeat any possible contention in the pending appeal, it would be more appropriate to raise such a question before the Appellate Court where the matter is now pending.

4. Learned counsel for the petitioner has submitted that the resolution has been passed without application of mind in a mechanical manner. It has been pointed out that from the minutes of the resolution it is apparent that the Board has merely indicated "approved" against the agenda relating to the notes submitted by the Managing Director. This according to the learned counsel for the petitioner signifies lack of application of mind on the part of the Board and mere mechanical approval of the suggestion of the Managing Director.
I am unable to accept such contention raised on behalf of the petitioner. It is not disputed that a detailed note given by the Managing Director was listed in the agenda for consideration and in the resolution it is stated to be "approved". It cannot be assumed for a moment that the Board had not gone through the detailed note prepared by the Managing Director which was placed for consideration. By according approval, it is obvious that the Board approved of the detailed note furnished by the Managing Director. It cannot be said that there was any lack of application of mind

5. The contention relating to violation of principles of natural justice has been argued at considerable length by the counsel appearing for the petitioner. It has been submitted that even in the matter relating to administrative action, if such action is likely to give rise to civil consequences, principles of natural justice should be followed. For the aforesaid purpose, the learned counsel for the petitioner has placed reliance upon the decisions of the Supreme Court reported in A.I.R. 1991 SC 1117 (THE SCHEDULED CASTE AND WEAKER SECTION WELFARE ASSOCIATION (REGD)AND ANOTHER vs. STATE OF KARNATAKA AND OTHERS), A.I.R. 1981 SC 818 (SWADESHI COTTON MILLS, etc. etc., v. UNION OF INDIA etc. etc.,), A.I.R. 1993 SC 2155 (RATTAN LAL SHARMA v. MANAGING COMMITTEE, Dr. HARI RAM (CO-EDUCATION)HIGHER SECONDARY SCHOOL AND OTHERS) and 1992 AIR SCW 3629 (MAHESH CHANDRA v. REGIONAL MANAGER, U.P. FINANCIAL CORPORATION AND OTHERS).

6. There is no quarrel over the prepositions indicated in the aforesaid decisions. Law is well settled that even in a matter relating to administrative action, depending upon the facts and circumstances of a given case, principles of natural justice are required to be followed. That does not however mean that in every case principles of natural justice must be followed. In the present case, the Board was seeking to alter its earlier resolution. It may be that the subsequent resolution may have some impact on the petitioner's right, but that does not mean that before passing the resolution, the Board was required to give an opportunity of hearing to the petitioner. Whether the Board would abandon the neighbourhood scheme or proceed with the matter is essentially an administrative decision of the Board

and for the aforesaid purpose, it is not necessary for the Board to give opportunity of hearing to the petitioner merely because such administrative decision would belie the expectations of the petitioner regarding release of land or even may have some impact on the right of the petitioner. In the facts and circumstances, I do not think that the Board has committed any illegality by not giving any opportunity of hearing.

7. Learned counsel for the petitioner has also raised the question of estoppel. I do not think the question of estoppel would arise in the present case. It may be that by the earlier resolution of the Board, the petitioner was hoping that he would get back the land, but it cannot be said that any promise had been given by the Board and the petitioner has acted to his detriment on the basis of any such promise.

8. Learned counsel for the petitioner has also submitted that there was a legitimate expectation in view of the earlier resolution. This submission is again a misconceived one. Merely because some hope was raised by virtue of earlier resolution, it cannot be said that there was any legitimate expectation. Expectations, if any, cannot be described as legitimate in the facts and circumstances of the present case.

9. For the aforesaid reasons, I do not find any merit in the writ petition, which is accordingly dismissed. There would be no order as to costs. Consequently, W.M.P.NO.2367 of 2000 is closed.

Index : Yes
Internet : Yes
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To

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